

REMARKS

Applicants acknowledge receipt of the Final Office Action mailed on November 14, 2008, has been received and carefully considered. Applicant Claims 1-7 are currently pending. Claim 1 is amended and claims 8-20 are cancelled.

Applicant would like to thank Examiner Clark for the telephonic interview held on November 25, 2008 with Joseph Contrera. During the interview, Examiner Clark discussed the washing step in Oura and that Applicant needed to distinguish the fact that in Applicant's method, the aqueous extract is processed to yield saponins, whereas Oura teaches that the aqueous, or ethanolic suspension created in the washing step, is discarded, and the solids are retained, then dried and ground, or subjected to further heating.

During the interview the undersigned attorney and Examiner Clark discussed amendments to claim 1 to further clarify and define that which Applicant considers to be the invention. Specifically, it was agreed that Applicant would amend claim 1 to show that the extract being obtained is aqueous, and that it is further processed to yield saponins.

In accordance with the discussion with the Examiner, Applicant proposes including the limitations of claim 8 into claim 1 to illustrate this difference. Additionally, Applicant proposes including the term "aqueous" before the word "extract" in step (iii) of claim 1. Support for these amendments can be found throughout the specification, particularly at page 3, lines 15-19; page 6, lines 9-29; page 7, lines 14-28; page 8, lines 1-30; page 9, lines 5-12, and examples 3 and 6. No new matter would be added by these amendments. Moreover, as agreed to with the Examiner, it is believed that these amendments would put the application in condition for allowance. Accordingly, applicant respectfully requests entry of these amendments.

Rejection under 35 U.S.C. §103(a)

In the Final Rejection, the Examiner maintained the rejection of claims 1, 2 and 4-8 under 35 U.S.C. §103(a) as allegedly being unpatentable over Oura et al., in view of Noller and Vogel et al. for the reasons set forth in the previous Office Action.

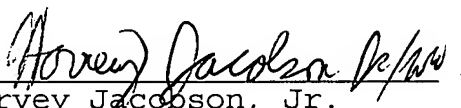
As was discussed during the interview, amended claim 1 would not have been obvious over the cited art because Oura et al., in view of Noller and Vogel et al., do not teach each and

every step of Applicant's amended process of producing an aqueous extract enriched in saponins. As such, Applicant respectfully requests withdrawal of this rejection.

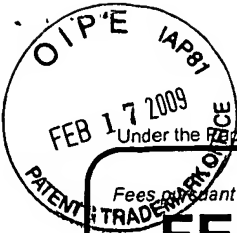
It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

JACOBSON HOLMAN PLLC


Harvey Jacobson, Jr.
Registration No. 20,851

400 Seventh Street, N.W.
Washington, D.C. 20004-2201
(202) 638-6666
Date: February 17, 2009



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FEE TRANSMITTAL

For FY 2009

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	10/519,112
Filing Date	December 23, 2004
First Named Inventor	HANSEN, Ole Kaae
Examiner Name	Amy Lynn Clark
Art Unit	1655
Attorney Docket No.	P70305US0

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
8 - 20 or HP =	0	0	0	
HP = highest number of total claims paid for, if greater than 20.				
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	
1 - 3 or HP =	0	0	0	
HP = highest number of independent claims paid for, if greater than 3.				

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x		

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

SUBMITTED BY

Signature	<i>Harvey B. Jacobson Jr.</i>	Registration No. (Attorney/Agent)	20,851	Telephone	202-638-6666
Name (Print/Type)	Harvey B. Jacobson, Jr.			Date	February 17, 2009

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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